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EXAMINER

NGUYEN, CHI Q

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



### **DETAILED ACTION**

This Office action is in response to applicant's amendment filed on 3/30/2009.

#### ***Status of Claims***

Claims 1-12 are pending.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the longitudinally extending cord member must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 7-12 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 6,401,402 to Williams.

Claim 1:

Williams discloses in Figs. 1-6, a sheet flashing member (25L or 25R) comprising: a sheet section defining a plane and including a main portion (25H) as well as first and second corner segments (wherein 29 and 30 point to on each of the corner), the main portion extending along a portion of a roof penetrating structure and the corner segments extending along other portions of the roof penetrating structure perpendicularly to the main portion, and at least one flange (25U) arranged at an angle relative to the plane of the sheet section and adapted to engage a surface of a roof penetrating building structure, comprises in that at least one of said corner segments at a surface thereof comprises at least one indication (29, 30) indicating a pattern, such that at least a part of the sheet section separable from the remaining part of the flashing member along the indications in order to transform the respective corner segment from an initial state to a transformed state.

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Claim 2:

Wherein each said indication (29, 30) comprises a visual indication in the shape of at least one longitudinally extending line or a longitudinally extending row of dots.

Claim 3:

Wherein each said indication (29, 30) comprises a weakening section.

Claim 4:

Wherein said weakening sections includes at least one groove 31.

Claim 5:

Wherein said groove is formed by depression.

Claim 7:

Wherein the pattern defines one or more indications delimiting an area (25J) of an end portion which, when separation has taken place, is able to be removed.

Claim 8:

Wherein the sheet section has a general longitudinal orientation, the pattern defining at least one indication (30) arranged at an oblique angle relative to the general longitudinal orientation, the oblique indication being directly or indirectly connected to a free edge of the sheet section.

Claim 9:

Wherein the sheet section includes a main portion and first and second end portions define first and second corner segments, the main portion comprising an upstanding flange (25U) and the first and second corner segments comprising first and second flanges (25J of each corner) arranged substantially perpendicularly to the upstanding

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flange, the flanges being adapted to engage a longitudinal surface portion of a roof penetrating building structure as well as its associated corner portions (Fig. 6).

Claim 10:

Further comprising a skirt element (25D) which is adapted to engage an upper roof surface.

Claims 11-12:

Wherein the first corner segment comprises an indication (29) arranged across the width thereof and generally perpendicularly to the general longitudinal orientation, and wherein the second corner segment comprises first and second indications (28, 29) defining a portion, and a third indication (30) arranged at an oblique angle relative to the general longitudinal orientation and connected to said portion.

#### ***Allowable Subject Matter***

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant argues that the prior art does not disclose a part of the sheet section is separate from the remaining part and also providing a definition of a verb "separate".

The applicant's arguments have been fully considered but they are not persuasive because: the cited limitation "at least of the sheet section is **separable** from the remaining part..." thus "separable" is capable of being separated (defined by

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dictionary.com). Therefore the prior art's sheet section as set forth in the claims is capable of being separated as well.

In regarding applicant argues that the prior art does not show or suggest a weakening section. The examiner does not agree that the crease line that folded along in the prior art is not a weakening section

In regarding applicant argues that the prior art does not disclose the weakening sections comprise a longitudinally extending cord member accommodated in the corner segment. The argument is persuasive and would be allowed.

In regarding applicant argues that the prior art does not disclose the pattern defines one or more indications delimiting an area of an end portion which when separation has taken place is able to be removed have been fully considered but they are not persuasive because as set forth above, the folded section of an end portion of the prior art is capable of being removed when the separation is taken place.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

/C. Q. N./  
Examiner, Art Unit 3635

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit 3635